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ATTORNEY GENERAL OPINION NO. 82-20 _____

The Honorable David G. Miller
State Representative, Forty-Third District
House of Representatives
3rd Floor, Statehouse
Topeka, Kansas 66612

Re: State Departments; Public Officers, Employees --
Department of Administration -- Inclusion of State
Agencies' Budget Requests in Governor's Budget
Report

Synopsis: While the governor has the power to make recommen-
dations regarding budget requests of state agencies,
and the director of the budget has the authority
to prescribe the format of such requests, neither
has the power to predetermine and circumscribe the
amount which may be requested. However, the gov-
ernor may require executive department agencies to
submit to him expenditure estimates within speci-
fied allocations of expected revenues, as long as
these agencies are not limited by such allocations
in making their requests for appropriations.

It is contrary to the requirements of law to omit
from the governor's budget report the itemized
budget request submitted by any state agency.
Where an agency has submitted an itemized budget
estimate which has been omitted from the budget
report, or where the budget request included in
the budget report for any state agency does not
represent that agency's actual budget estimate,
the governor should amend the budget report so as
to include these agencies' actual, itemized re-
quests for appropriations. Cited herein: K.S.A.
75-3714a (as amended by L. 1981, ch. 341, §1),
75-3715, 75-3716, K.S.A. 1980 Supp. 75-3717, 75-3718,
75-3721, Kan. Const., Art. 1, §§3,4.

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Dear Representative Miller:

You have posed several questions regarding the preparation of Governor Carlin's Fiscal Year 1983 Budget Report, recently submitted to the 1982 Legislature. Although you have requested our opinion on six specific questions, it is apparent from our review of these questions that there are two central issues underlying your inquiries, i.e., can the governor or the director of the budget limit the amount of a state agency's budget request, and must the governor and the director of the budget include each state agency's budget request in the governor's budget report.

Our review of the instructions given to each state agency regarding the preparation of agencies' budget requests for fiscal year 1983 confirms your understanding that a new procedure was instituted in 1981. Of pertinence are the new budgeting concepts which were introduced by Governor Carlin in his memorandum of March 9, 1981, to all agency heads. In that memorandum, Governor Carlin stated that a "balanced base" budget would be adopted for use in fiscal 1983 budget preparation. He explained this concept, as follows:

"In May I will ask for an estimate of revenues available for expenditure in fiscal year 1983 and will allocate those expected revenues on an agency-by-agency basis. That allocation will constitute the balanced base from which further budgetary adjustments will be made as I prepare final budget recommendations. Note that the balanced base allocations will be at the agency level and not at the program level. It will remain the task of agency heads to distribute the agency allocation across programs within their agency so as to satisfy public service needs with maximum efficiency and effectiveness." (Emphasis in original.)

Another significant conceptual change is that of "alternative service levels." Governor Carlin's memorandum explained this concept as follows:

"For most state programs, the Division of the Budget will require the submission of line item information for each of three ('A,' 'B,' and 'C') levels. The B level budget will correspond to the balanced base allocation; that is, the total of all B level program requests for an agency will equal that agency's

total allocation as announced on June 1. The A level budget will represent a reduction of funding below the base level by an amount specified in detailed instructions issued from the Division of the Budget. The C level budget will represent additional funds beyond the balanced base in an amount specified in Division of the Budget detailed instructions. The information contained in the three-level submissions, together with agency explanations of the difference in services that would result from adopting alternative service levels, will be the basis for my final FY 1983 budget recommendations. As has been the case in past years, differences between Division of the Budget recommendations about the distribution of the agency allocation across programs and agency budget requests will be grounds for the appeal and restoration process provided for in Kansas statute."

Subsequent to the Governor's memorandum, the director of the budget issued numerous memorandums to all state agency heads, providing detailed instructions as to the preparation of agencies' FY 1983 budget requests. The culmination of these procedures was capsulized by the following excerpt from the "Introduction to the Budget," prepared by the director of the budget and included in Governor Carlin's FY 1983 Budget Report:

"On June 1, 1981, after studying the important issues submitted by department administrators, Governor Carlin allocated expected 1983 revenues among state agencies. These allocations were the foundation on which agencies were instructed to build their financial plans for 1983. Agencies made expenditure proposals based on their allocation. These proposals are termed 'B level budgets.' The B level proposals are shown for each program and agency, except for those cases where agencies failed to comply with instructions."

The foregoing quotations from Governor Carlin's memorandum and the budget report itself reveal that the Governor and the director of the budget did, in fact, issue directives to all state agencies that would limit each state agency's budget request to the amount of the expected 1983 revenues allocated to that agency by the Governor. These quoted excerpts

also indicate that some state agencies did not comply with these directives, and a review of the budget document discloses that the budget requests by some of these state agencies were omitted from the governor's budget report. For example, with respect to the budget information regarding the Judicial Department, the budget report contains no "B level" budget. On each of the pages of the budget report pertaining to the line item budget of the judiciary, there is the following notation: "This agency did not comply with the Division of the Budget instructions." Although each such notation is followed by a statement as to the total amount of money requested by the judicial department for a particular "program" function, the budget report contains no itemization of the judiciary's request for funding. Similar treatment is afforded the budget requests of the State Board of Regents and each of the educational institutions under the Board's jurisdiction.

From our review of these facts, we have discerned that the budget request of each state agency complying with the instructions of the director of the budget has been presented in the budget report as the "B Level Budget," which reflects a request that has been circumscribed by the governor's allocation of expected 1983 revenues to that agency. It also is apparent that no itemized funding request has been included in the budget report for some of the state agencies which did not submit a request within the amount so allocated to that agency. Essentially, you have requested our opinion as to the propriety of these procedures.

Our opinion must be predicated, in part, on the statutory provisions pertinent to the budgetary process. Initially, we note that the legislature has assigned certain budgeting responsibilities to the director of the budget, who supervises the division of the budget under the direct supervision of the secretary of administration (K.S.A. 75-3714a, as amended by L. 1981, ch. 341, §1.). K.S.A. 75-3715 prescribes the general powers and duties of the director of the budget, as follows:

"The director of the budget shall:

"(1) Keep in continuous touch with the operations, plans and needs of state agencies, and with the sources and amounts of revenue and other receipts of the state.

"(2) Analyze the quantity and quality of services rendered by each agency, and the needs for such services and for any new services.

"(3) Prepare under the supervision of the incoming governor, the budget report for submission to the legislature.

"(4) Prepare a legislative measure or measures reflecting the incoming governor's budget.

"(5) Consider and act on applications for transfers between appropriations of the same agency as provided by law.

"(6) Survey such work programs and periodical allotment requests submitted by state agencies as are required by this act.

"(7) Report to the governor and to the incoming governor on the operation of the budget system and advise and assist the governor, incoming governor, state finance council, legislature and its ways and means committees on request, concerning any matters relating to the budget.

"(8) Provide management analysis service to state agencies."

We also note the provisions of K.S.A. 1980 Supp. 75-3718(a), which state:

"(a) The director of the budget shall have in continuous process and revision a tentative budget for the coming years, in the light of direct studies of the operations, plans and needs of the state agencies and of the existing and prospective sources of revenue. After summarizing estimates of funds which may be available and the estimated requirements for the several state agencies, the director shall cause them to be reviewed in relation to the general financial condition and needs of the state and shall cause to be made such further inquiries and investigations, and such revision of the tentative budget, as the director may deem necessary."

In light of the foregoing general responsibility imposed on the director of the budget regarding the budgeting process,

we can appreciate the director's desire to obtain the information which each state agency was instructed to provide in the form of its FY 1983 budget request. Such information undoubtedly is of assistance to the director of the budget in fulfilling his statutory obligations, and we can certainly appreciate how such data can be of value to the governor in developing his fiscal policies. However, notwithstanding the value of such information, the question remains whether the authority exists to acquire the desired information by limiting the amount of a state agency's budget request. To this end, we have reviewed some of the fundamental principles underlying our constitutional government.

Early in our state's judicial history, the Kansas Supreme Court had occasion to consider the fundamentals of our system of government in Coleman v. Newby, 7 Kan. 82 (1871). We have found particularly instructive the following excerpt from the separate opinion of Justice Valentine:

"In this country it is universally acknowledged and insisted upon that the people are the original source and fountain of all civil and political power; that neither the whole government, nor any department thereof, possesses any inherent power; that the people are sovereign, and the different departments of the government are simply agencies through which the people exercise that sovereignty; and that all the power that can be exercised by any department of the government is merely delegated power which it derives from the people. The state government derives its powers from the people solely by virtue of the state constitution. This constitution is the letter of attorney or chart of authority from the people to the government, and to the different departments thereof. Hence, in order to ascertain what power is delegated to the government, and to each of its departments, we must look to the constitution itself."
(Emphasis added.) Id. at 86.

After quoting with approval a portion of the foregoing and noting that similar language is found in The State, ex rel., v. City of Topeka, 31 Kan. 452 (1884), the Court in Leek v. Theis, 217 Kan. 784 (1974), reiterated the principle that all governmental power under our system of government is inherent in the people of our state, who exercise such power

through the legislative branch of government. Id. at 802. Accordingly, the legislature is free to act, except as it is restricted by the state and federal constitutions. Id. These principles have given rise to the oft-repeated proposition that our constitution limits rather than confers powers, and any power not limited by the constitution remains with the people and their legislators. See, e.g., NEA-Fort Scott v. U.S.D. No. 234, 225 Kan. 607, 609 (1979).

One such limitation on the legislative power is found in Article 1, Section 3 of the Kansas Constitution, which states: "The supreme executive power of this state shall be vested in a governor, who shall be responsible for the enforcement of the laws of this state." The extent of this power was considered in The State, ex rel., v. Dawson, 86 Kan. 180 (1911), where the court said:

"We do not find that the meaning of the phrase 'The supreme executive power,' as contained in our constitution and the constitutions of many other states of this Union, has ever been precisely defined, although the matter is referred to in some decisions. Perhaps the term itself taken in connection with the context is sufficiently explicit. An executive department is created consisting of a governor and the other officers named, and he is designated as the one having the supreme executive power, that is, the highest in authority in that department. In the same connection it will be noticed that the other executive officers are required to furnish information upon subjects relating to their duties, and to make annual reports to him, and withal he is charged with the duty of seeing that the laws are faithfully executed. It is manifest from these various provisions that the term 'supreme executive power' is something more than a verbal adornment of the office, and implies such power as will secure an efficient execution of the laws, which is the peculiar province of that department, to be accomplished however in the manner and by the methods and within the limitations prescribed by the constitution and statutes enacted in harmony with that instrument.

"When a constitution gives a general power, or enjoins a duty, it also gives, by implication, every particular power necessary for

the exercise of the one, or the performance of the other. The implication under this rule, however, must be a necessary, not a conjectural or argumentative one. And it is further modified by another rule, that where the means for the exercise of a granted power are given, no other or different means can be implied, as being more effectual or convenient. (Field v. The People, 3 Ill. 79, 83.)" (Emphasis added.) Id. at 187, 188.

This constitutional provision has been considered with respect to specific gubernatorial acts. For example, the Court in Barrett v. Duff, 114 Kan. 220 (1923), was considering whether Article 1, Section 3 provided the governor with power to appoint persons to fill vacancies in public offices, when it stated:

"But the authorities uniformly hold that such constitutional provision does not confer upon the governor the power to appoint officers, either for full terms or to fill vacancies. The only power the governor has to make official appointments is that conferred upon him by specific constitutional or statutory provisions, and that has been repeatedly recognized, both in our constitution and in our statutes." Id. at 241.

Regarding the power to pardon, the Court has held that, since the power to pardon for crimes is inherent in the people, who may vest such power in any of the three branches of government, such power no more inheres in the governor by virtue of his office than it does in the judicial branch when the constitution is silent. Jamison v. Flanner, Sheriff, 116 Kan. 624, 634, 635 (1924), and cases cited therein.

We also believe the following statement in Martin, Governor, v. Ingham, 38 Kan. 641 (1888), to be relevant to our consideration:

"Perhaps we should say something further with respect to the claim that the three great branches of the government, the legislative, the judicial, and the executive, are coequal and coordinate, and that one cannot control or direct the others. This may be true to some extent, and yet, as we have already seen, it is not true in many cases. For the purpose

of passing laws the legislature is supreme, and the other departments must obey. For the purpose of construing the laws, and of determining controversies, the courts are supreme, and the other departments must obey. And for the purpose of ultimately enforcing the laws the executive department is supreme, and the other departments must obey. But the executive department can enforce the statutory laws only as the legislature has enacted them, and where the courts have construed the laws (statutory or constitutional) in the determination of controversies, the executive department can enforce them only as thus construed, and is bound to see that the laws as thus construed, and the judgments and orders of the courts rendered or made in the determination of controversies, are respected and obeyed." Id. at 656, 657.

From these authorities it is clear that, while the supreme executive power of the state is vested in the governor, the governor's authority to act must emanate from the constitution and statutes of this state. Unlike the legislature which possesses all legislative power not limited by the constitution, the governor has only such authority as is granted by the constitution and statutes. Separate and apart from these bodies of law the governor has no inherent power. As the chief executive officer, the governor possesses "such power as will secure an efficient execution of the laws" (The State, ex rel., v. Dawson, supra), and even though general grants of power by the constitution and statutes may give rise to implied powers to secure efficient execution of the laws, any such implied power "must be a necessary, not a conjectural or argumentative one." Id.

Before measuring the governor's authority by the statutory budget procedures, we think it important to recognize that

"[t]he power to appropriate money belonging to the state and rightfully in the state treasury and over which the legislature has the rightful control is a legislative power, and, except as is restricted by the constitution, the legislature has the exclusive power to direct how, when and for what purpose the public funds shall be applied in carrying out the objects of the state government." State, ex rel., v. Fadely, 180 Kan. 652, Syl. ¶4 (1957).

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We think there can be little question that the submission of budget requests by state agencies and the presentation of the governor's budget report to the legislature are part of the appropriation process. This was recognized in Attorney General Opinion No. 74-11, wherein it was stated:

"An initial budget document is a declaration of an agency's intended use of funds for which they request appropriation. Nevertheless, budget documents accordingly, from the time of initiation to the time they are presented to the legislature in the form of the Governor's budget report, as required by K.S.A. 75-3721, never materialize, except through cognizable legislative action, beyond recommendations."
VIII Op. Att'y Gen. 1105.

By the various provisions of K.S.A. 75-3715 to 75-3721, and amendments thereto, the legislature has prescribed the general procedures for the submission of funding requests to the legislature, and has set forth the respective powers and duties of the governor, director of the budget and the various state agencies as regards the budgeting process. Pertinent among these are the provisions of K.S.A. 75-3716, which states:

"The director of the budget shall prepare the budget report, with the related legislative measure or measures, for the incoming governor's approval and submission to the legislature. The director of the budget shall, on or before September first of each year, furnish to every state agency or person authorized to spend or receive state funds a sufficient number of budget estimate forms. The forms shall be prepared by the director of the budget and shall be so designed as to show actual expenditures for at least the last preceding completed fiscal year, estimated expenditures for the current fiscal year, and requests for each succeeding fiscal year, and data for like periods with respect to receipts and actual or estimated balances at the end of such fiscal years.

"The director of the budget may require the estimated expenditures to be classified so as to set forth the data by funds, state agencies, character and objects of expenditures, which

expenditures may also be required to be classified by functions and activities. The director of the budget may require the revenue estimates to show the basis upon which the estimates were made and the factors involved in the same, and to be classified so as to show receipts by funds, and sources and types of income. The director of the budget may require such further detail, work programs, supplemental and supporting data, and such information as may be necessary to carry out the provisions of this act." (Emphasis added.)

Also relevant is K.S.A. 1980 Supp. 75-3717, which states in pertinent part:

"(a) As provided in this section, each state agency, not later than October first of each year, shall file with the division of the budget its budget estimates, and all amendments and revisions thereof, in the form provided by the director of the budget, including a full explanation of its requests for any appropriations for the expansion of present services and the addition of new services. . . . At the same time as each state agency submits to the division of the budget a copy of its budget estimate, and all amendments and revisions thereof, each such state agency shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the legislative research department for legislative use.

. . . .

"(c) The director of the budget may prepare budget estimates for any state agency failing to file a request." (Emphasis added.)

We also have noted the following provisions of K.S.A. 1980 Supp. 75-3718(b):

"Not later than November tenth of each year, the director of the budget shall notify each state agency in writing of any revision of its requests and the agency affected may request a hearing thereon which request may

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be filed within ten (10) days after receipt of notice but, in any case, not later than November twentieth of such year."

And, finally, we have considered K.S.A. 1980 Supp. 75-3721, which provides for the submission of the governor's budget report to the legislature. Subsection (b) thereof requires the budget report to be "set up in three parts," and the contents of the second part are relevant here, the pertinent requirements being as follows:

"(B) Part two shall embrace the detailed budget estimates, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon." (Emphasis added.)

In reaching our conclusions as to the requirements of the foregoing statutory provisions, we have been guided by well-established rules of statutory construction. Of principal significance is the following statement in Southeast Kansas Landowners Ass'n v. Kansas Turnpike Auth., 224 Kan. 357 (1978):

"The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statutes. Easom v. Farmers Insurance Co., 221 Kan. 415, Syl. 2, 560 P.2d 117 (1977); Thomas County Taxpayers Ass'n v. Finney, 223 Kan. 434, 573 P.2d 1073 (1978); Brinkmeyer v. City of Wichita, 223 Kan. 393, 573 P.2d 1044 (1978)." 224 Kan. at 357.

Supporting this principle is the rule that, "[i]n order to ascertain the legislative intent, courts are not permitted to consider only a certain isolated part or parts of an act but are required to consider and construe together all parts thereof in pari materia." Brown v. Keill, 224 Kan. 195, 200 (1978).

Neither our constitution nor the statutes prescribing the budgetary procedure vest in the governor an express grant of authority to limit the amount of a state agency's budget request. Moreover, we find no basis for implying such power from these statutes. Rather, by applying the rules of construction cited above, we believe there is a manifest legislative intent that the governor's power be limited to recommending changes in budget requests made by state agencies.

In our judgment, the legislative purpose underlying these statutes is to have submitted to the legislature, in the form of the governor's budget report, independent requests for appropriations from the various state agencies, together with the governor's recommendations thereon. The statutes quoted above reflect a desire by the legislature to obtain two independent statements -- the collective budget requests of the state agencies and the governor's recommended changes in these requests.

In our judgment, even though to limit the amount of state agencies' budget requests may be determined by the governor to be more "effectual or convenient" to the exercise of his statutory duties, such determination provides no basis for the implication of powers beyond those expressly granted to the governor, i.e., to submit a budget report containing requests for appropriations by state agencies, together with the governor's recommended changes therein. (See State, ex rel., v. Dawson, supra.) It can scarcely be suggested that limiting the amount of a state agency's request for funding does not affect the substance of the agency's request, and if we presume the governor possesses authority to dictate the total amount of an agency's request to fund its proposed budget, could it logically be argued that the governor lacked authority to alter some or all of the various line item components of the agency's budget request? We think not; but neither could it be reasoned that such proposed budget then represents the agency's request for appropriations. If the governor possesses the authority in the first instance to determine the substance of state agencies' funding requests, what is the purpose of the statutory requirement that agencies be afforded a hearing with respect to changes proposed by the governor in their budgets after their submission? If the governor can predetermine agencies' budget requests, what is the purpose of the legislature's requirement that the budget report contain the agencies' requests and the governor's recommendations? If we assume the governor's power to alter the substance of state agencies' budget requests prior to their submission, then both such legislative purposes are defeated, and in our judgment, the implication of such power is unwarranted as being contrary to expressed legislative intent.

Similarly, the director of the budget is given clear authority to devise and prescribe for use by state agencies the format in which their appropriation requests are to be submitted. Such authority, however, does not carry with it the power to affect the substance of such requests. As an administrative officer, the director can exercise only such powers

as are expressly conferred upon him by law or which are necessary to effectuate such express powers. See, e.g., Murray v. State Board of Regents, 194 Kan. 686, 689, 690 (1965). And courts have consistently limited the determination of implied powers to situations where, without them, the governmental officer or agency would have no way to carry out the express statutory powers. See, e.g., Edwards County Commissioners v. Simmons, 159 Kan. 41 (1944); Womer v. Aldridge, 155 Kan. 446 (1942); State, ex rel., v. Davis, 114 Kan. 270 (1923); The State, ex rel., v. Wooster, 111 Kan. 830 (1922); The State, ex rel., v. Younkin, 108 Kan. 634 (1921); Young v. Regents of State University, 87 Kan. 239 (1912); and Brown County v. Barnett, 14 Kan. 627 (1875).

In this instance, we can find no necessity for implying powers in the director of the budget beyond those expressly granted to that office by statute. We note, in fact, that for a substantial number of years the director of the budget has been able to accomplish his statutory duties with respect to the budgetary process without the necessity of implying authority beyond the express statutory provisions.

We also have concluded that the omission of state agencies' detailed funding requests from the governor's budget report contravenes statutory requirements. As previously noted, the director of the budget is vested with the authority to prescribe the format of agencies' budget requests, and pursuant to that authority, agencies have been required to provide an itemized proposal of their total requests for appropriations. Thus, such itemized requests must be considered as the agencies' "detailed budget estimates" that are required by K.S.A. 1980 Supp. 75-3721(b)(B) to be included in part two of the governor's budget report. Accordingly, to omit from the budget report the funding request of any agency that is in the format prescribed by the director of the budget contravenes this statutory requirement, particularly where the stated reason for omitting such request is the agency's failure to comply with the directives which we previously found to be without lawful authority.

At this point, the conclusions we have reached respond to all of the issues you have raised, except one. You have noted that most state agencies have complied with the governor's directive to submit alternative budget estimates (A, B and C level budgets), but for those agencies the governor has included only one of these alternatives (B level) in his budget report. As a result, you have asked whether the governor is required to include in the budget report all of the alternative budget estimates by each such agency. In our judgment, he is not.

As previously noted, the statutes setting forth the budgeting procedure do not contemplate the submission of alternative budget requests based on varying projections as to expected revenues. Each state agency is required to submit a single request for appropriations, and it is that request which the governor is required to include in the budget report for submission to the legislature. If, in fact, the B level budgets included in the budget report for the various state agencies represent these agencies' requests for appropriations, irrespective of the limitation imposed by the governor's allocation of expected revenues, the governor has complied with the statutory requirements. However, because of the potential limiting effect the governor's allocation of expected revenues has on the agencies' budget requests, it is possible that none of the alternative budget estimates for any particular state agency represents that agency's request for appropriations, and in that event, not even the inclusion of all three alternative budget levels would satisfy the statutory requirements.

From the factual information available to us, we are limited in reaching a conclusion as to the validity of the vast majority of the budget requests set forth in the budget report. However, it is apparent, as we noted above, that the itemized budget requests for certain state agencies (i.e., the Judicial Department, State Board of Regents and the institutions of higher education under the Board's jurisdiction) have not been included in the budget report. Thus, it is our further opinion that, in order to comply with statutory requirements, the governor should amend the budget report so as to include the itemized requests of those agencies.

As to the other agencies, we believe it is incumbent on the governor to determine whether the B level budgets included in the budget report for the various state agencies represent the actual requests for appropriations by those agencies, and in the event they do not, the budget report should be further amended to provide the actual requests.

In summary, then, it is our opinion that, while the governor has the power to make recommendations regarding budget requests of state agencies, and the director of the budget has the authority to prescribe the format of such requests, neither has the power to predetermine and circumscribe the amount which may be requested. Neither the Kansas Constitution nor the relevant statutes of this state expressly vest such power in either officer, and the implication of such power is unwarranted, in light of the manifest legislative

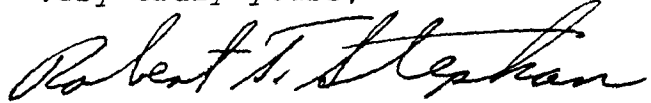
intent that requests for appropriations to operate state agencies be made by the agencies themselves. In addition, it is contrary to the requirements of K.S.A. 1980 Supp. 75-3721 to omit from the governor's budget report the itemized budget request submitted by any state agency. Finally, it is our further opinion that, where an agency has submitted an itemized budget estimate which has been omitted from the budget report, or where the B level budget included in the budget report for any state agency does not represent that agency's actual budget estimate, the governor should amend the budget report so as to include these agencies' actual, itemized requests for appropriations.

Before concluding, one caveat is in order. This opinion should not be construed as suggesting that the governor may not request from all state agencies the type of information requested of them in 1981 in connection with the preparation and submission of their FY 1983 budget requests. In fact, we believe the governor, in pursuance of his responsibility to make recommendations on state agencies' budget requests, has the authority to require the submission to him of such data and information from executive department agencies. Our belief in this regard is prompted not only by the fact that the governor is the chief executive officer of the state (Kan. Const., Art. 1, §3), but also because of the constitutional authority of the governor to "require information in writing from the officers of the executive department, upon any subject relating to their respective duties" (Kan. Const., Art. 1, §4). Supporting these constitutional provisions is the significant recognition given by the legislature, through its approval of numerous executive department reorganization measures in the past decade, that the governor is ultimately to be held accountable for the management of various executive department agencies. However, the thrust of our opinions previously expressed herein is that the governor's exercise of these powers must be consonant with specific statutory mandates regarding the budgetary process. Hence, while we believe the governor may require from executive department agencies the submission to him of expenditure estimates with-in specified allocations of expected revenues, it is our opinion that the exercise of such gubernatorial power may not be extended, so as to require that agencies submit these

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proposals in lieu of their policy determinations as to their
respective budgetary requirements.

Very truly yours,



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